

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

SINGULAR COMPUTING LLC,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Civil Action No. 1:19-cv-12551-FDS

Hon. F. Dennis Saylor IV

DECLARATION OF ERIC SHIRK

ERIC SHIRK, pursuant to 28 U.S.C. § 1746, declares:

1. I am over the age of twenty-one and believe in the obligations of an oath.
2. I make this declaration based on personal knowledge of the matters set forth in this declaration and I am competent to testify thereto.
3. I am a Partner with BDO USA, LLP, a professional services firm providing assurance, tax, financial advisory, and consulting services to a wide range of publicly traded and privately held companies. BDO USA, LLP, is the United States member firm of BDO International. I am the National Leader of Digital Forensics and Cyber Investigations in BDO's Forensic Technology Services practice. Prior to joining BDO, I was a Managing Director and Technical Consultant for UHY Advisors where I oversaw the firm's digital forensics practice. I have more than 20 years of experience conducting both domestic and international investigations for corporations and their legal counsel in the financial, healthcare, and energy industries. I have experience collecting, analyzing, and reporting on digital evidence. I have experience in investigations involving financial fraud, data breaches, anti-bribery and foreign corruption, whistleblower allegations, intellectual property theft and

trademark protection, embezzlement and kickback schemes, litigation intelligence and specialized fact finding. I have experience in discovery protocols, neutral third-party analysis agreements, 26(f) conferences, protective orders, preservation and collection protocols, and 30(b)(6) preparations.

4. I am the sole inventor for a US Patent for “System and Method for Preserving Electronically Stored Information” marketed as “Tristan”, which allows a layperson to complete a forensic image of a laptop, desktop or server computer.


5. I am professionally certified by the International Society of Forensic Computer Examiners (ISFCE). I am a professionally Certified Computer Examiner (CCE) and Cellebrite Certified Physical Analyst (CCPA). I have a B.S. in Computer Information Systems from Missouri State University.

6. I have reviewed the contents of Google’s most recent production, which Google identified as Prod Vol GOOG-SING026.

7. I have noted some inconsistencies between the metadata provided with this production versus Google’s prior production. For example, the metadata corresponding to the email produced at GOOG-SING-0024320 is inaccurate and fundamentally different from the metadata corresponding to every single other email that Google has produced, including those emails produced in this production set. An example of this metadata inconsistency is that the file name, data modified date and date created date reflect a date of 7/11/2023, which is inconsistent with the email sent date of 9/11/2013. This nearly ten year difference suggests that the produced metadata is inaccurate and was likely altered from the true metadata values prior to production.

8. BDO has conducted a search of Google's produced documents and we do not find any previous reference to GOOG-SING-0024320.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 17, 2023.

A handwritten signature in cursive script, appearing to read "Eric Shirk", is positioned above a horizontal line.

Eric Shirk